

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

BOARD OF COUNTY)	
COMMISSIONERS OF THE COUNTY)	
OF KAY, OKLAHOMA)	
)	CASE NO. 5:12-cv-00601-C
Plaintiff,)	
vs.)	
)	
FREEPORT-MCMORAN COPPER &)	
GOLD, INC.; FREEPORT-MCMORAN)	
CORPORATION f/k/a PHELPS)	
DODGE CORPORATION;)	
CYPRUS AMAX MINERALS)	
COMPANY; and BLACKWELL)	
ZINC COMPANY, INC.)	
Defendants.)	

JOINT STIPULATION OF DISMISSAL

Plaintiff Board of County Commissioners of the County of Kay, Oklahoma (“Plaintiff” or the “County”); and Defendants Freeport-McMoRan Copper & Gold, Inc., Freeport-McMoRan Corporation (f/k/a Phelps Dodge Corporation), Cyprus Amax Minerals Company, and Blackwell Zinc Company, Inc. (“BZC”) (collectively, “Defendants”); collectively referred to herein as “the Parties,” by way of Stipulation and pursuant to Federal Rule of Civil Procedure 41, and have consented to the following in the above-captioned case:

1. It is stipulated and agreed by the Parties that, with the exception of the claims listed in Paragraph 2 below, all claims by Plaintiff against Defendants in the above-captioned matter are **DISMISSED WITH PREJUDICE**.

2. It is stipulated and agreed by the Parties that Plaintiff reserves the following claims, and that such claims are **DISMISSED WITHOUT PREJUDICE**: any and all claims for cost recovery and/or contribution under the Comprehensive Environmental

Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. (“CERCLA”), arising from any state or federal regulatory action arising after November 25, 2013, that were not incurred as a result of remedial action or work included in or required by (a) Consent Agreement and Final Order, Case No. 13-244, (b) the Consent Agreement and Final Order, Case No. 12-211, or (c) any conditions placed on any No Further Action letter issued by the Oklahoma Department of Environmental Quality to the County pursuant to the Consent Agreement and Final Order, Case No. 13-244.

3. It is stipulated and agreed by the Parties that the following claims by BZC against Plaintiff in the above-captioned matter are **DISMISSED WITH PREJUDICE**: any and all claims under CERCLA, for costs incurred prior to October 4, 2013, for costs incurred or to be incurred as part of BZC’s obligations under the Consent Agreement and Final Order, Case No. 12-211, and for costs incurred as part of the remedial action or work included in or required by paragraphs 14, 15, and 16 of the Consent Agreement and Final Order, Case No. 13-244.

4. It is stipulated and agreed by the Parties that, with the exception of the claims listed above in Paragraph 3, BZC reserves any other CERCLA cost recovery and/or contribution claim arising after November 25, 2013, and that any such claim is **DISMISSED WITHOUT PREJUDICE**.

The Parties have tendered to the Court, simultaneously with this Joint Stipulation, an Agreed Order of Dismissal for entry by the Court.

Respectfully submitted,

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